

23 June 1958

MEMORANDUM FOR THE RECORD

SUBJECT: Circuit Court's Opinion on the Monmouth Security Risk Firings

1. The Court of Appeals for the District of Columbia Circuit has reversed the District Court which had granted the Government's motions for summary judgements in six cases where civilian employees of the Army sought to have their discharges declared invalid. The cases were consolidated for appeal and the decision handed down on 19 June (Coleman, et al. v. Brucker).

2. The employees were discharged as "security risks" purportedly under the authority of the Act of August 26, 1950, 64 Stat. 476, 5 USC Section 22-1 (1952) as implemented by Executive Order 10450 and Army Special Regulation Number 620-220-1. Judge Washington based his opinion on Peters v. Hobby, 349 US 33, Accardi v. Shaughnessy 347 US 260, and Service v. Dulles, 354 US 363 in which it was determined that petitioners were not removed according to regulations "validly prescribed by a government administrator are binding upon him as well as the citizen."

3. Paragraph 40 of the Army Special Regulation requires that if the Security Review Board "reaches an adverse conclusion as to an employee - after either a favorable or an unfavorable determination by the Security Hearing Board - 'a letter of notification will be sent to the employee, with copies to all interested offices, advising him of the findings of the Security Hearing Board.'" Five of the employees were advised that "your continued employment . . . would not be clearly consistent with the interests of national security under . . . Executive Order 10450." The sixth was informed that the Security Review Board had tentatively concluded that his continued employment "would not be clearly consistent with the interests of national security."

4. The Court rejected the Government's contention that the quoted statements substantially complied with the regulation. It held that the word "findings" contemplates more than "a mere conclusory statement notifying the employee that he is a 'security risk.'" Findings are intended to give the employee information "that he may use in seeking further consideration by the Security Review Board or by the Secretary of the Army."

5. The complete opinion is on file in the OGC library.

OGC Has Reviewed

✓ Subject - See 2-8010452 Rev.

Signer

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